

RICHMOND NEWS LEADER
2 MARCH 1981

Arguments to Be Heard On Access to CIA Data

By STEVE ROW

A seven-year old dispute over the confidentiality of some Central Intelligence Agency documents isn't over yet.

A federal appeals panel here will listen to arguments Thursday on whether to allow a lawyer not involved in the original dispute to have access to the documents.

In a case before the 4th U.S. Circuit Court of Appeals, the CIA is appealing a ruling by U.S. District Judge Albert V. Bryan Jr. in Alexandria last October. The ruling had the effect of modifying a 1974 protective order providing former Defense Department employee Morton Halperin with some access to the documents in question.

The 1974 ruling was related to the publication of a controversial book about the CIA titled "The CIA and the Cult of Intelligence" by Victor Marchetti, who is a former CIA employee.

More than 150 items in the Marchetti book were deleted before publication. Halperin was granted access to some of the deleted portions to help him prepare testimony on behalf of the book publisher in a court challenge of the CIA's right to classify the information before publication.

The publisher eventually lost the challenge.

Since then, Halperin has become director of the Center for National Security Studies, an organization that filed suit last year in federal court in Washington to gain access to some of the documents that were referred to in Marchetti's book.

Halperin asked Bryan to alter the terms of the original order so that he could allow his lawyer to see the documents to which he was provided access several years ago, and which still are classified.

Bryan agreed, subject to conditions that included a requirement for the attorney, Mark Lynch, to keep information confidential about the documents he is shown.

However, the CIA's attorneys have argued that such a ruling was inappropriate because Halperin did not tell Bryan whether his testimony would be sought in the center's lawsuit against the CIA.

The information in question still is "sensitive" in nature, the government's attorneys also argued. When Bryan ruled that Lynch could see the documents on the "speculative possibility" that it might help in the new lawsuit, Bryan abused his judicial discretion, the attorneys said.

"Obviously no compelling necessity was established or even alleged here to merit a

ruling in favor of Halperin's request for expanded access to the documents, the government has argued.

John Cary Sims, a lawyer for Halperin, has filed a written argument with the appeals court contending that subsequent developments show little need for the documents to remain classified.

In addition, the CIA has permitted the disclosure of at least 35 of the 168 items originally deleted from Marchetti's book, Sims pointed out.

Halperin is seeking expanded access to the documents to assist in the preparation of an affidavit for use in the center's lawsuit. Sims argued that the affidavit could be prepared better if the attorney also had access to the documents to which Halperin would refer.

Lynch also would be bound by all restrictions placed on Halperin earlier on use of the material, Sims argued. He also must secure a CIA security clearance before he gains access to the documents, thus protecting the government's interest in security, Sims said.